

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 CORY O'NEAL BREWER,

4 Plaintiff

Case No. 3:21-cv-00224-MMD-CLB

ORDER

5 v.

6 STATE OF NEVADA,

7 Defendant
8

9 **I. DISCUSSION**

10 On May 14, Plaintiff, an inmate in the custody of the Nevada Department of
11 Corrections ("NDOC"), submitted an application to proceed *in forma pauperis* and a
12 declaratory judgment. (ECF Nos. 1, 1-1). Plaintiff has not submitted a complaint or a
13 fully complete application to proceed *in forma pauperis*.

14 Under Federal Rule of Civil Procedure 3, "[a] civil action is commenced by filing a
15 complaint with the court." Fed. R. Civ. P. 3. As such, the Court grants Plaintiff until **July**
16 **16, 2021** to submit a complaint to this Court.

17 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin
18 a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil
19 action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the
20 inmate must submit all three of the following documents to the Court:

21 (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this
22 Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on
23 page 3),

24 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
25 official (i.e. page 4 of this Court's approved form), and

26 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
27 **previous six-month period**.

28 Plaintiff has not submitted a Financial Certificate or an inmate account statement

1 for the previous six-month period. Accordingly, the Court denies Plaintiff's application to
2 proceed *in forma pauperis* (ECF No. 1) without prejudice because the application is
3 incomplete. The Court will grant Plaintiff a **one-time extension** to file a fully complete
4 application to proceed *in forma pauperis* containing all three of the required documents.
5 Plaintiff will file a fully complete application to proceed *in forma pauperis* on or before **July**
6 **16, 2021**. Absent unusual circumstances, the Court will not grant any further extensions
7 of time.

8 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*
9 with all three required documents on or before **July 16, 2021**, this case will be subject to
10 dismissal without prejudice for Plaintiff to file a new case with the Court when Plaintiff is
11 able to acquire all three of the documents needed to file a fully complete application to
12 proceed *in forma pauperis*.

13 A dismissal without prejudice means Plaintiff does not give up the right to refile the
14 case with the Court, under a new case number, when Plaintiff has all three documents
15 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff
16 may choose not to file an application to proceed *in forma pauperis* and instead pay the
17 full filing fee of \$402 on or before **July 16, 2021** to proceed with this case.

18 **II. CONCLUSION**

19 For the foregoing reasons, IT IS ORDERED that Plaintiff will submit a complaint to
20 this Court on or before **July 16, 2021**.

21 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
22 approved form for filing a 42 U.S.C. § 1983 complaint and instructions for the same. The
23 Clerk of the Court will also send Plaintiff a copy of his declaratory judgment. (ECF No. 1-
24 1).

25 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*
26 (ECF No. 1) is denied without prejudice to file a new fully complete application to proceed
27 *in forma pauperis* with all three documents.

28 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the

1 approved form application to proceed *in forma pauperis* by an inmate, as well as the
2 document entitled information and instructions for filing an *in forma pauperis* application.

3 IT IS FURTHER ORDERED that on or before **July 16, 2021**, Plaintiff will either
4 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
5 administrative fee) or file with the Court:

6 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
7 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
8 signatures on page 3),

9 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
10 official (i.e. page 4 of this Court's approved form), and

11 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
12 **previous six-month period.**

13 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint and a fully
14 complete application to proceed *in forma pauperis* with all three documents or pay the full
15 \$402 filing fee for a civil action on or before **July 16, 2021**, this case will be subject to
16 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case
17 number, when Plaintiff is able to file a complaint and has all three documents needed to
18 file a complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

19 DATED: May 18, 2021

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22 UNITED STATES MAGISTRATE JUDGE
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